

1 *Armstrong*, 520 U.S. 968, 973 (1997) (quoting 11 C. Wright, A. Miller, & M. Kane, *Federal*
2 *Practice and Procedure* § 2948 (2d ed. 1995)). Here, Plaintiffs have failed to carry that
3 heavy burden.


4 Plaintiffs ask that the Trustee's Sale concerning their home be enjoined because "[t]he
5 defendant's [sic] are not the holder in due course and do not have standing to foreclose on the
6 above referenced property." (Mot. for a TRO 2:3, ECF No. 3.) However, they provide no
7 affidavits in support of this conclusory proposition, nor do they plead any additional facts to
8 support it. Such a conclusory statement cannot provide the basis for a temporary restraining
9 order, particularly in Nevada, where one does not necessarily need to be the holder in due
10 course in order to conduct a Trustee's Sale. *See Garand v. J.P. Morgan Chase Bank, N.A.*,
11 No. 3:10-cv-00212-LRH-VPC, 2011 WL 2600459, at *3 (D. Nev. June 29, 2011) ("[U]nder
12 Nevada law there is no holder in due course requirement for a trustee to initiate a nonjudicial
13 foreclosure."). A temporary restraining order can only be entered upon a "clear showing" that
14 Plaintiffs are likely to succeed on the merits or that there is a serious question going to the
15 merits, and an unsupported allegation such as Plaintiffs' does not rise to the level of making a
16 "clear showing."

17 Accordingly, this Motion will be denied.

18 **CONCLUSION**

19 **IT IS HEREBY ORDERED** that Plaintiff's Motion for a Temporary Restraining
20 Order (ECF No. 3) is **DENIED**.

21 DATED this 25th day of July, 2011.

22
23
24 
25 Gloria M. Navarro
United States District Judge